

1 I. NEEL CHATTERJEE (State Bar No. 173985)
nchatterjee@orrick.com
2 MONTE COOPER (State Bar No. 196746)
mcooper@orrick.com
3 MORVARID METANAT (State Bar No. 268228)
mmetanat@orrick.com
4 ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Rd.
5 Menlo Park, California 94025
Telephone: 650-614-7400
6 Facsimile: 650-614-7401

7 FREDERICK D. HOLDEN, JR. (State Bar No. 61526)
fholden@orrick.com
8 ORRICK, HERRINGTON & SUTCLIFFE LLP
The Orrick Building
9 405 Howard Street
San Francisco, California 94105-2669
10 Telephone: 415-773-5958
Facsimile: 415-773-5759
11

12 Attorneys for Plaintiff
FACEBOOK, INC.
13

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN JOSE DIVISION
17

18 FACEBOOK, INC.,
19 Plaintiff,
20 v.

21 POWER VENTURES, INC. a Cayman Island
corporation, STEVE VACHANI, an individual;
22 DOE 1, s/b/a POWER.COM, DOES 2-25,
inclusive,
23 Defendants.
24

Case No. 5:08-cv-05780-LHK (JCS)

**DECLARATION OF MORVARID
METANAT IN SUPPORT OF
FACEBOOK, INC.'S MOTION FOR
COSTS**

**CONFIDENTIAL
FILED UNDER SEAL**

Dept: Courtroom G, 15th Floor
Judge: Hon. Judge Joseph C. Spero

1 I, Morvarid Metanat (otherwise referenced as Morvarid Esmaili-Metanat), declare as
2 follows:

3 1. I am an attorney at the firm of Orrick, Herrington & Sutcliffe LLP, and counsel for
4 Plaintiff Facebook, Inc. ("Facebook"). I am admitted to the Bar of the State of California. I
5 submit this declaration in support of Facebook's Motion for Costs. I make this declaration of my
6 own personal knowledge and, if called as a witness, I could and would testify competently to the
7 truth of the matters set forth herein.

8 2. Pursuant to Civil Local Rule 37-4(b), this declaration accompanies Defendants'
9 Motion for Costs.

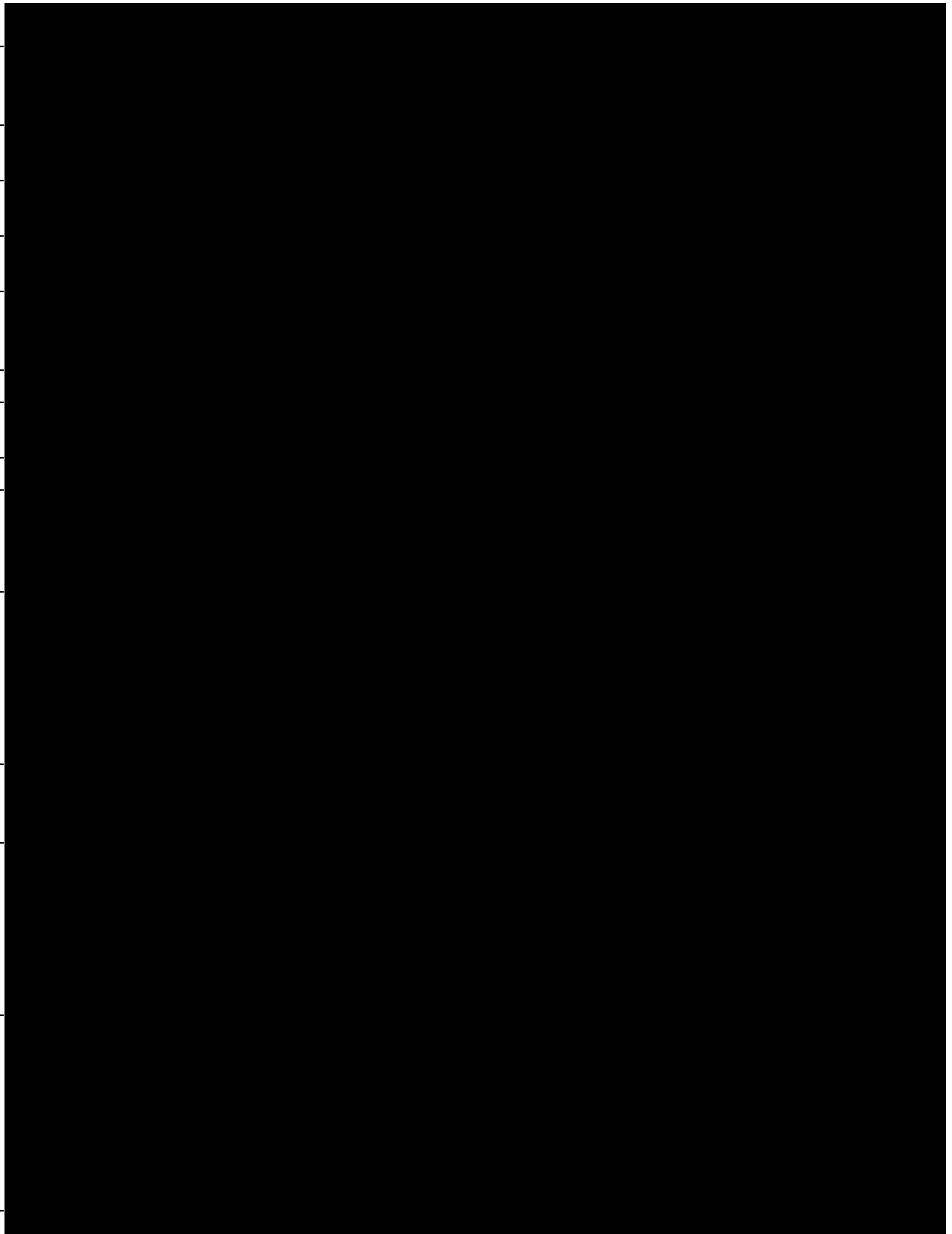
10 3. On January 26, 2012—a week following the close of discovery and weeks after
11 Facebook had taken the Rule 30(b)(6) deposition of Defendant Power—Facebook received a
12 "Microsoft Exchange File" from Defendants that contained 76,457 files, 5,752 folders, and 74.6
13 gigabytes of data. This File contained emails and data that had not been previously produced to
14 Facebook, despite Facebook's repeated requests for this information. A significant amount of
15 these files were written in Portuguese.

16 4. Attached hereto as **Exhibit A** is a true and correct copy of the transcript from the
17 February 24, 2012 hearing before Magistrate Judge Spero.

18 **Costs Associated With Renewed Deposition**

19 5. Power's renewed deposition was taken on March 7, 2012. Facebook expended at
20 least [REDACTED] in costs, including attorneys fees, associated with this renewed deposition. This
21 amount is supported by the attached copies of Orrick invoices to Facebook marked as
22 **Exhibits D-E**, which have been redacted to ensure continued protection of Facebook's work
23 product. Should the Court so require, Facebook is prepared to submit unredacted copies of these
24 invoices *in camera*. Summarized, the invoices reflect the following amount of work by Orrick
25 attorneys and paralegals on behalf of Facebook and specifically related to the renewed Rule
26 30(b)(6) deposition of Power:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



¹ The “task times” referenced in this chart refer only to the amount of time for which Facebook seeks fees. To the extent that the task times referenced in the actual Invoices attached hereto as **Exhibits D and E** are higher, Facebook is not seeking fees for that additional time. Non-recoverable tasks have been redacted in the attached Invoices.

1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 6. Morvarid Metanat is an associate with at Orrick, Herrington & Sutcliffe LLP, and
 12 is one of the attorneys that is the most familiar with the *Facebook v. Power, et al.* matter.
 13 Ms. Metanat reviewed in the first instance the 74.6 gigabytes of emails and data that Defendants
 14 had dumped on Facebook only weeks before the deposition, and culled it down into larger
 15 segments of relevant information. Because of her familiarity with this litigation, Ms. Metanat
 16 was highly efficient in her review of Defendants' Microsoft Exchange File containing 74.6
 17 gigabytes of emails and data in preparation for the renewed deposition of Power. Ms. Metanat
 18 discounted the number of hours expended on Power's renewed deposition to only reflect her time
 19 spent reviewing documents in preparation of the deposition.

20 7. Monte Cooper, Of Counsel at Orrick, Herrington & Sutcliffe LLP, is one of the
 21 attorneys with the most familiarity with the *Facebook v. Power, et al.* matter. Mr. Cooper
 22 conducted a targeted review of the data and emails culled by Ms. Metanat to identify documents
 23 specifically for the deposition, as limited to the then existing briefing related to the damages and
 24 personal liability issues that remained following Chief Judge Ware's summary judgment ruling.
 25 Because of his familiarity with this litigation, Mr. Cooper was highly efficient in his review of
 26 these emails and documents. Moreover, Mr. Cooper discounted the number of hours expended on
 27 Power's renewed deposition to only reflect his time spent reviewing documents in preparation of
 28 the deposition and the hours spent taking the deposition. His time also includes the 8.1 hours that

1 indisputably were required for the actual taking of the renewed 30(b)(6) deposition.

2 8. Amy Dalton is a Senior Paralegal at Orrick, Herrington & Sutcliffe LLP.

3 9. At the time the above referenced costs were incurred, Megan Beardsley was a
4 paralegal at Orrick, Herrington & Sutcliffe LLP.

5 10. Facebook does not seek reimbursement for any time spent reviewing materials for
6 any other purpose than the renewed deposition of Power. At the time of the deposition, Facebook
7 had already completed its summary judgment briefing on Defendants' liability. Facebook has
8 made every attempt to minimize and discount the amount of time and materials spent on
9 preparation for the renewed deposition of Power. In fact, Facebook had excluded from its
10 calculations the time spent by the partner in charge, Neel Chatterjee, supervising the preparation
11 for deposition, as well as the time spent by at least one other associate in assisting with such
12 preparation, because of their minimal roles.

13 11. Given the short timeframe between Defendants' untimely production of 74.6
14 gigabytes of data and Power's deposition, Facebook was forced to expedite its orders for certified
15 translations of Defendants Portuguese documents to ensure delivery by the deposition date.
16 Facebook incurred [REDACTED] in costs for these expedited translations. Had Defendants produced
17 these documents before the discovery deadline as required, Facebook would not have had to pay
18 for expediting costs. Attached hereto as **Exhibit B** are true and correct copies of the invoices
19 related to these translations.

20 12. Facebook also incurred [REDACTED] 3 in videographer and court reporting services at
21 the deposition. A true and correct copy of the invoice related to these costs is attached hereto as
22 **Exhibit C**.

23 13. Thus, the expenses related to preparation for the renewed deposition of Power are
24 [REDACTED].

25 14. Following Power's renewed deposition, Facebook made numerous requests for
26 reimbursement of the deposition costs as part of the required informal pre-motion meet and
27 confer discussions. Defendants failed to address Facebook's requests, and instead, Defendants
28 counsel moved to withdraw as counsel of record for Defendants. Shortly thereafter, Defendants

1 separately filed voluntarily petitions for bankruptcy, automatically staying the District Court
2 action. These stays recently have been lifted.

3 **Costs Caused By Defendants Failure To Reimburse Facebook**

4 15. On May 15, 2013, Facebook met and conferred with Defendants regarding
5 reimbursement of the costs for Power's renewed deposition. Defendants refused to reimburse
6 Facebook for these costs. At this meeting, Defendants stipulated to the reasonableness of
7 Facebook's attorneys' and paralegals' hourly rates. Defendants did not dispute or otherwise
8 object to the time spent in preparation for the deposition. Defendants, however, argued that
9 Facebook would have had to expend the time and resources whether or not the Court had ordered
10 a renewed deposition. Defendants also indicated that they could not decide which of the
11 Defendants were responsible for covering the Court ordered costs.

12
13
14 Dated: May 30, 2013

ORRICK, HERRINGTON & SUTCLIFFE LLP

15
16 By: /s/ Morvarid Metanat
MORVARID METANAT
17 Attorneys for Plaintiff
FACEBOOK, INC.
18
19
20
21
22
23
24
25
26
27
28